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Attorneys for Plaintiffs
WILBERT ESSEX

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

WILBERT ESSEX,
Plaintiffs,

vs.

CITY OF BERKELEY, RICKY DAVIS,
Defendants.

NO. C08-04898 MMC MHP

**STIPULATION AND ~~PROPOSED~~
ORDER TO CONTINUE THE INITIAL
CASE MANAGEMENT CONFERENCE**

**DATE: February 2, 2009
TIME: 4:00 p.m.
CTRM: 15, 18th Floor
San Francisco**

IT IS HEREBY STIPULATED by and between the parties to continue the presently scheduled Initial Case Management Conference date from February 2, 2009, to a new date and time that is convenient to the Court and the parties with the exception of February 13 through 20 as the attorneys have other conflicts during this period. The parties understand that the following dates are available which work within the parties' respective calendars: February

23, and March 2, 9, 16 and 23. The parties are willing to participate in a telephone conference with the Court, as necessary, to select new dates and times.

The parties are submitting this request in the above entitled case and all other related cases. There is good cause for the stipulation to extend time as follows:

- Unavailability of Lead Trial Counsel: The primary purpose of this request is the unavailability of lead trial counsel for the plaintiffs. In particular, plaintiffs' lead trial counsel, David M. Poore, has been scheduled for a significant discovery and status hearing in the nationwide class action entitled *Stalnaker v. Allstate Insurance Company, et. al.* Case No. 04 CV 2628 which is pending before the District Court, El Paso County, State of Colorado, located in Colorado Springs, Colorado. Given this conflict, it would be impossible for plaintiffs' lead trial counsel to attend both hearings as plaintiffs' counsel is required to travel to Colorado Springs. The parties stipulate and agree that this trial conflict constitutes good cause to continue this matter.
- No Prior Trial Continuance Requests: The parties have not made any prior requests for a continuance of the Initial Case Management Conference in this matter.
- Judicial Economy and No Prejudice: The parties are not making this request for any improper purpose, including undue delay. Instead, the parties agree that judicial economy will be served if this request is granted. In particular, it is crucial that plaintiffs' lead trial counsel attend and participate in the Initial Case Management Conference. Moreover, neither party would suffer any prejudice if the trial date was continued; instead, the parties have stipulated to this request.

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1 SO STIPULATED.

3 Respectfully submitted:

4 ZACH COWAN, Acting City Attorney
5 SARAH REYNOSO, Acting Assistant City Attorney
6 MARK J. ZEMBSCH, Deputy City Attorney
7 KRISTY van HERICK, Deputy City Attorney

8 Dated: January 26, 2009.

By: _____/s/_____

9 MARK J. ZEMBSCH, Deputy City Attorney
10 Attorneys for City of Berkeley and Ricky Davis

11 Respectfully submitted:

12 KAHN BROWN & POORE LLP

13 Dated: January 26, 2009.

By: _____/s/_____

14 DAVID M. POORE
15 Attorney for Wilbert Essex

17 **ORDER**

18 THE COURT HEREBY ORDERS AS FOLLOWS:

19 The parties' request to continue the Initial Case Management Conference is hereby
20 GRANTED. The presently set Case Management Conference on February 2, 2009, is hereby
21 VACATED. The parties are ordered to appear at an Initial Case Management Conference on
22 March 23, 2009, at 4:00 a.m./p.m. to set a trial date and new deadlines.

23 IT IS SO ORDERED.

